



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/172045

PRELIMINARY RECITALS

Pursuant to a petition filed February 12, 2016, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on March 15, 2016, at Fond Du Lac, Wisconsin.

The issue for determination is whether the Division of Hearings and Appeals has jurisdiction to hear and decide a billing issue with a marketplace insurance plan.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Dr. [REDACTED]
Division of Health Care Access and Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.
2. The petitioner had insurance through the Marketplace in 2015. Her insurance provider was [REDACTED]. Toward the end of 2015 the petitioner incurred medical bills. Those medical bills have not been covered by [REDACTED].

3. After the petitioner incurred these medical bills she became eligible and began receiving State Medicaid (MA) Coverage. Her HMO provider for her State MA plan was [REDACTED]. The petitioner has no issue with her MA coverage.
4. On February 15, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

Administrative law judges (ALJs) receive jurisdiction over matters by statutory authorization. If jurisdiction does not exist, the ALJ has no authority to decide the merits of the case:

Administrative boards and commissions have no common law power. Their powers are limited by statute conferring such powers expressly or by fair implication. It is the general rule that an agency or board created by the legislature only has the powers which are either expressly conferred or necessarily implied from the four corners of the statute under which it operates. The effect of this rule has generally been that such statutes are strictly construed to preclude the exercise of a power which is not expressly granted.

Village of Silver Lake v. Department of Revenue, 87 Wis. 2d 463 (Ct. App., 1978).

In this case, the petitioner sought to appeal a payment issue with insurance that she obtained through the Marketplace. This is essentially a private insurance exchange subsidized by the Federal Government through the Affordable Care Act. The Division of Hearings and Appeals handles appeals from the State agencies. We do not handle appeals regarding Marketplace insurance issues. Following the hearing, I e-mailed the petitioner the address for Marketplace appeals.

The petitioner was upset because she believed that the Division of Hearings and Appeals had the wrong insurance provider on the phone. There should not have been any insurance provider on the phone as the Division of Hearings and Appeals does not have jurisdiction in this matter. The only reason [REDACTED] appeared is that they are the petitioner's current HMO provider for her State MA plan.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals does not have jurisdiction to hear and decide a billing issue with a marketplace insurance plan.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

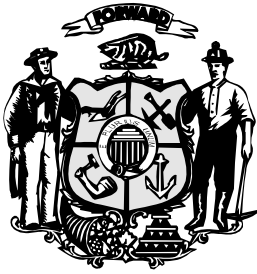
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of March, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 18, 2016.

Division of Health Care Access and Accountability